

WOLOSHIN
LYNCH
NATALIE
& GAGNE, P.A.
Attorneys & Counsellors at Law



Serving Residents of Delaware
Since 1965

3200 Concord Pike
PO Box 7329
Wilmington, DE 19803
(302) 477-3200
Fax (302) 477-3210

22 West Main Street
Middletown, DE 19709
(302) 449-2606
Fax (302) 449-2608

Melvyn A. Woloshin ◊
F. Edmund Lynch †
James A. Natalie, Jr. ◊
David C. Gagne
William L. O'Day, Jr. *
Natalie Woloshin ◊
James A. Landon ▲

January 9, 2006

DE & CO Bars ◊
DE & VA Bars †
DE, CT & VA Bars ◊
DE & PA Bars *
DE & NJ Bars ▲

Writer's Telephone Number:
(302) 477-3200 ext. 15
e-mail: nwoloshin@wlnglaw.com
Reply to: Wilmington Office

The Honorable Joseph J. Farnan, Jr.
United States District Court for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: United States v. Chevez C. Gale
C. A. No. 05-72-JJF

Dear Judge Farnan:

On October 31, 2005, Chevez Gale entered a guilty plea to Count One of the Indictment charging him with a violation of 21 U.S.C. Sections 841(a)(1) and (b)(1)(C). The plea was entered in accordance with a plea agreement entered between the Government and Mr. Gale. The plea agreement provided that at the time of sentencing the Government agrees to a three (3) level reduction in the offense level for the Defendant's affirmative acceptance of responsibility. Mr. Gale is currently scheduled for sentencing before Your Honor on February 8, 2006.

Prior to the entry of the plea, there were discussions between the probation office and me Mr. Gale's regarding prior criminal history and its

potential impact upon sentencing. The main purpose of these discussions was to determine whether Mr. Gale would be considered a Career Offender pursuant to U.S.S.G. Section 4B1.1. Based upon these discussions, I advised Mr. Gale that it was my opinion that he would not qualify as a Career Offender.

A copy of the presentence report was provided to Mr. Gale and me on or about December 22, 2005. This report indicated that Mr. Gale met the requirements of a Career Offender as he had at least two prior felony convictions for a controlled substance offense. The report found that the two prior convictions in State Court were as follows: Possession with Intent to Deliver a Schedule I Narcotic Substance stemming from a July 7, 2000 arrest; and Possession with Intent to Deliver a Schedule I Narcotic Substance stemming from a January 12, 2001 arrest. While Mr. Gale was arrested on two separate days for these charges, Mr. Gale entered a guilty plea in State Court to both charges on the same day, June 11, 2001.

It is clear that the confusion concerning whether Mr. Gale is a Career Offender was the belief that since Mr. Gale pled to the two prior drug offenses on the same day, they only counted as one offense rather than separate offenses as indicated by the presentence report. The issue is that Mr. Gale entered his guilty plea believing his offense level was a 16 only to learn through the presentence report that it is a 32. If Mr. Gale had known that he was a Career Offender, he most likely would not have entered the guilty plea.

As Your Honor is most likely aware, this case is loosely related to much larger case involving a group of heroin dealers in Wilmington investigated by the Government. Mr. Gale's involvement in that case is akin to that of a much lower level defendant who was previously sentenced before this Court. The sentencing guideline range confronting Mr. Gale is significantly disproportionate to the sentence received by that defendant, especially considering that they were similarly situated. This disparity is unfair to Mr. Gale who should receive a sentence more in line with his involvement in the case.

Due to the issues presented with this case, I am respectfully requesting a pre-status sentencing conference with Your Honor and counsel to discuss these matters. I have spoken with Mr. Safwat and John McDonough who are not opposed to proceeding in this fashion. After consulting with my client, Mr. Gale waives his right to be present at this pre-status conference.

Thank you for your attention to this matter.

Sincerely yours,

/s/ Natalie S. Woloshin

Natalie S. Woloshin (ID No.: 3448)

cc: Adam Safwat, Assistant United States Attorney
John McDonough, Probation Office
Jean Lubinsky, Probation Office
Chevez Gale